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| 09/726,820      | 11/30/2000  | John C. Goodwin III  | 8843                | 5154             |

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3622

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/726,820  
Filing Date: November 30, 2000  
Appellant(s): GOODWIN, JOHN C.

FILED  
NOV 15 2004  
GROUP 3600

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Paul J. Maginot  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed September 02, 2004.

(1) *Real Party in Interest*

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A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 1-11, Claims 12-20, claims 21-23, claim 24 and claim 25 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

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**(9) Prior Art of Record**

|           |              |         |
|-----------|--------------|---------|
| 6,604,681 | BURKE et al. | 8-2003  |
| 5,887,271 | Powell       | 03-1999 |
| 6,456,981 | Dejaeger     | 09-2002 |

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Burke et al. U.S. Patent No. 6,604,681 and Powell U.S. Patent No. 5,887,271.

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Claims 1-10, both Burke and Powell teach a data receiver for receiving customer identification data and customer product selection data, customer interest data generator for generating customer interest data and path generator for generating a customer path to location corresponding to customer product selection data that includes a location corresponding to customer interest data; generating map data file for a display at a kiosk; querying a database to obtain purchase history, demographic data (see Burke, col. 3 line 3 to col. 6 line 12, See Powell, col. 15 line 4 to col. 17 line 33).

Claim 11, both Burke and Powell teach generating paths that do not include aisle intersection portion that are not on the generated customer path (see Burke, col. 6 line 61 to col. 7 line 24 and Powell, fig. 26 and col. 16 line 43 to col. 17 line 4).

Claims 12-23 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Burke et al. U.S. Patent No. 6,604,681.

Claims 12-20, Burke teaches receiving customer identification data and product selection; generating customer interest data from the customer identification data; generating path to location corresponding to selected product; construction shortest distance path ..., identify products using customer purchase data, reading demographic data (see col. 3 line 3 to col. 6 line 12), generating paths including aisle intersection (see col. 6 line 61 to col. 7 line 24).

Regarding claim 21, Burke teaches receiving customer identification data and product selection data (see col. 9 lines 3-18); generating customer interest data (shopping list) (see col. 11 lines 52 to col. 12 line 7) and generating a customer path to location in the store based on customer identification data and product selection data (see col. 11 lines 24-64).

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Regarding claim 22, Burke teaches querying a database with the customer identification data to obtain customer purchase history (shopping list) and generating customer interest data based on the purchase history (see col. 11 line 24 to col. 12 line 7).

Regarding claim 23, Burke teaches constructing shortest distance between the kiosk location and selected product (see col. 3 lines 28-38 and col. 11 lines 24-40).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burke as applied to claim 21 above, and further in view of Dejaeger et al. U.S. Patent No. 6,456,981.

Regarding claims 24 and 25 Burke teaches customized offer based on customer's past purchase history, however failed to explicitly teach generating customer interest data based on date and time data and reading demographic data. Dejaeger teaches receiving demographic data including data and time data in order to provide customized offer to customer (see col. 8 line 61 to col. 12 line 53). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to receive demographic information including data and time data in order provide the customer with customized promotional information.

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**(11) Response to Argument**

***Regarding claims 1-11, Burke and Powell teach generating a path corresponding to customer interest data.***

Regarding claim 1, Appellant argues that Burke does not teach, suggest or disclose generating path to the customer product selection data that includes at least one location corresponding to customer interest data.

According to Appellant's specification the customer interest data is products that may interest the consumer (page 9). The specification discloses "when a customer uses a smart card to identify himself or herself, more data are available for determining a product that likely to catch a customer's interest as he or she moves through the store to the product for which the customer requested direction (page 11).

Burke discloses " (T)o permit a consumer to identify his/her current location in the store using the system of Fig. 9, in one embodiment, the consumer first enters the UPC number from the product's package, hang tag, or shelf tag into a hand-held device of the system" (col. 10 lines 56-67). Further Burke discloses, "... if the consumer's location is known by the system, such as by scanning of a UPC number or product, by entry of text indicating the current location, by verbal statement of current location, by pinpointing the shopper's location by global positioning system means or other electronic positioning means, or other means well known in the art, the system of the present invention is capable of providing the consumer with directions to the product to be located" (col. 11 lines 24-40). Further (in lines 53-64), Burke discloses "if the shopper's shopping list resides on or is accessible from the hand-held device as previously described, the requested product(s) could be entered automatically from the hand-held device or

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by selection of a product from the list by the shopper at the hand-held device. Also, the list could be compared by the hand-held device or processor to special deals, such as coupons and rebates and alert the shopper by communicating means of the hand-held device of such special deals.

Appellant however argues that nowhere in Burke indicate that the special deal is included in a customer path.

Examiner would like to point out that in Burke's system, when the produce is selected from the shopping list, the system provides the consumer with path or map or direction to the selected product and also the shopping list is compared to special deals and the consumer is alerted of such deals, which indicates that the customer being provided with the map and as the same time being alerted of the special deals after the consumer selects a product. Therefore, when special deals are identified, by comparing the shopping list, it is clear that a map or a path to the product selected is provided and the customer is alerted of the special deals (customer interest data).

**Regarding the argument that Powell does not teach storing consumer identification data.**

Appellant argues that the card stores coupons, however does not store customer identification data. Powell teaches when the customer receives the card the customer's identification data is included in the card (see at least col. 6 lines 49-67, col. 7 lines 1-15, col. 8 lines 44-61).

Appellant also argues that Powell does not teach generating a path to the location of the selected product that includes one location and corresponding to customer interest data.

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Appellant states, "Powell does teach providing location of a coupon product within a store. However, providing product location is not generating a path to the product. Moreover, providing product location is not generating a path to a product wherein the path includes a location corresponding to generated customer interest data".

Powell teaches path generated to the location of selected product, by providing a map and indicating the location of the product (see at least fig. 26 and col. 15 lines 4-34, col. 16 lines 14-40, col. 17 lines 5-27). Appellant specification also discloses the path being provided in a visual form as a map or in textual direction (see page 10 lines 10-18).

Appellant also argues that the customer interest data and selected product cannot be the same. Examiner disagrees.

Appellant's claim recites, generating a customer path to a location corresponding to the customer product selection data that includes at least one location corresponding to the customer interest data.

Examiner agrees that in Powell the customer selects product corresponding to a coupon on a customer card, and the path being generated to provide location to the selected product, which happen to be customer interest data (discount product). Examiner however does not agree that the selected product and the interest data cannot be the same. Powell teaches generating customer interest data (receiving electronic coupon before or during visit to the store (see col. 8 line 62 to col. 9 line 29). Powell teaches receiving product selection in response to customer inserting the card (see col. 11 line 56 to col. 12 line 28) and providing a map of the location of the selected product (see col. 15 lines 4-12, col. 15 line 62 to col. 16-40).

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In Powell the customer interest data is generated as coupon data and the selection is received from coupon data (interest data). And once the customer selects a product, which is the customer's interest, the customer is directed to selected product, a product that is likely to be of interest to the customer. In claim 4, Appellant claims that the customer interest data generator **identifies products not selected by the customer but in which the customer may have an interest to purchase**, which differentiate the product selected from the interest data. The claim interpretation of claim 4 supports Examiners interpretation of claim 1, i.e., the interest data (data that could interest consumer) being the selected product itself. Thus, using the broadest reasonable interpretation of the claimed invention there is no reason why the selected product and the interest data cannot be the same.

*Regarding claims 2-11, Burke and Powell teach the limitation set forth in claim 1.*

Burke and Powell teach the limitation of claim 1, as stated above, therefore the rejection of dependent claims 2-11 is proper.

*Regarding claim 12, Burke teaches generating path to a selected product.*

Regarding claim 12, since the same argument is presented by Appellant the response set forth above in claim 1 applies.

*Regarding claims 13-20, Burke teaches the limitation set forth in claim 12.*

Regarding dependent claims 13-20, Burke teaches the limitation of claim 12, as stated above in claim 1, therefore, the rejection is proper.

*Regarding claim 21, Burke teaches generating path to a location.*

Regarding claim 21, the response of claims 1 and 12 applies.

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***Regarding claim 22, Burke teaches the limitation set forth in claim 21.***

Burke teaches the limitation of claim 21, as stated above, therefore the rejection of dependent claim 22 is proper.

***Regarding claim 24, Burke teaches the limitation set forth in claim 21.***

Since Burke teaches the limitation of claim 21, i.e., generating customer interest data, and Dejaeger teaches customer interest data, based on time and date, the rejection of obviousness over Burke in view of Dejaeger is proper.

***Regarding claim 24, Burke teaches the limitation set forth in claim 21.***

Since Burke teaches the limitation of claim 21, i.e., generating customer interest data, and Dejaeger teaches customer interest data, based on demographic data, the rejection of obviousness over Burke in view of Dejaeger is proper.



For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

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Art Unit 3622

YR  
November 10, 2004

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